

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

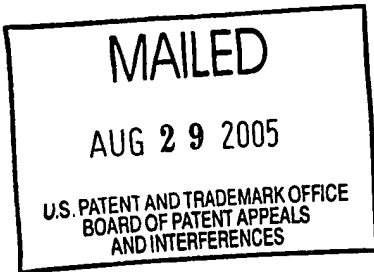
Ex parte JOHN ZHU
and
MICHELE ANN JANNETTE

Application 09/840,328

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was received electronically at the Board of Patent Appeals and Interferences on August 12, 2005. A review of the application has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is herewith being electronically returned to the examiner. The matters requiring attention prior to docketing are identified below:

An examination of the file reveals that an Information Disclosure Statement (IDS) was filed December 15, 2004. It is not apparent from the record whether the examiner considered the statement submitted or notified appellants of why their



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submission did not meet the criteria set forth in 37 CFR §§ 1.97 and 1.98. A communication notifying appellants of the Primary Examiner's decision is required.

In addition, the Examiner's Answer mailed June 3, 2005 does not comply with the new rules under 37 CFR § 41.37(c).

Accordingly, it is

ORDERED that the application is returned to the Examiner:

1. for consideration of the IDS filed December 15, 2004 and appropriate notification to appellants regarding the Primary Examiner's decision;

2. to vacate the Examiner's Answer mailed June 3, 2005 and issue a revised Examiner's Answer¹ in compliance with the new rules effective September 13, 2004;


3. to have a complete copy of any subsequent Examiner's Answer scanned into the record; and

¹The examiner should correct his references to claims 1-33 as only claims 1-30 are involved in this appeal.

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4. for such further action as may be appropriate.

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